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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,550	01/25/2002	Richard E. Michaelson	112300-4548	8841
29159 7590 01/07/2009 BELL, BOYD & LLOYD LLP P.O. Box 1135 CHICAGO, IL 60690				
EXAMINER YOO, JASSON H				
ART UNIT 3714		PAPER NUMBER		
NOTIFICATION DATE 01/07/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

### Office Action Summary

**Application No.**

10/056,550

**Applicant(s)**

MICHAELSON, RICHARD E.

**Examiner**

Jasson H. Yoo

**Art Unit**

3714

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 42-44, 46, 47, 51-53, 55, 56 and 60-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-44, 46-47, 51-53, 55-56, 60-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

Claims 42-44, 46-47, 51-53, 55-56, 60-63 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claimed invention is directed to a method and a gaming machine for playing a wagering game after receiving a wagering fee. The wagering fee is deducted from the value total. At step (f) value of any received award is added to the balance. At step (g) the method of deducting a value from the value total continues as long as the balance remains above a level. Thus it is possible that the value total is zero (depleted from the wagering fees at step d) and at the same time having a positive value (by adding the award value to the balance at step f). However, it is not clear how steps (b) though (e) can occur while the value total is zero since the fees are deducted from the value total (not the balance).

Claims 42-44, 46-47, 51-53, 55-56, 60-63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 42-44, 46-47, 60-61 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The claimed invention is directed to a

method of playing a wagering game after receiving a wagering fee. The wagering fee is deducted from the value total. At step (f) value of any received award is added to the balance. At step (g) the method of deducting a value from the value total continues as long as the balance remains above a level. Thus it is possible that the value total is zero (depleted from the wagering fees at step d) and at the same time having a positive value (by adding the award value to the balance at step f). However, it is not clear how steps (b) though (e) can occur while the value total is zero since the fees are deducted from the value total. It appears the claimed method omits the step of deducting the fees from the balance.

Claims 51-53, 55-56, 62-63 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the gaming components that allows the fees to be deducted from the balance. (see 112 rejection second paragraph for claim 42 above).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 42-44, 46-47, 51-53, 55-56, 60-63 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Walker et al. (US 6,077,163).

Claim 42. Walker discloses a method and a gaming system for playing on the gaming system using flat rates for a period of time. Walker discloses wagering fees associated to the time interval the player selects (722 in Fig. 2B). The player can select the same game with the same game parameters using the same wager fee (col. 7:39-54). Thus, these fees are deducted for each of the same time intervals by selecting the previous game parameters. The player can continue to play during these time intervals using the same fee (by selecting the same game parameters), as long as the player has enough balance of the value total to pay for these fees. More specifically Walker discloses: a method of operating a gaming system, said method comprising:

(a) receiving a value total associated with a player (value total is the amount of coin inserted in the gaming machine, or the electronic credit associated to the player's account, cols. 4:6-10, 6:5-6, 14:55-65.) said value total being divisible into a plurality of fees (722 in Fig. 2B, 724 in Fig. 7. The value total is considered as the original balance of the player's account. This value total can be used to play for numerous wagering games. Thus the value total is divisible by a plurality of wagering fees.);

(b) providing the player with an opportunity to perform at least one play of at least one game for a period of time, the period of time being divisible into a plurality of time intervals [If the player plays for a plurality of time intervals the total time total time

period is inherently divisible into a plurality of time intervals. If the player elects 30 minutes intervals for \$15 (see Fig. 7), and plays for one hour, the total time period of one hour is divisible by the time interval of 30 minutes] the at least one play involving a chance to receive at least one of a plurality of awards, each one of the awards having a value [It is inherent that a slot machine provides the player a chance to receive an award having a value. The award can be in the form of a non-monetary value or a monetary value. In this case Walker discloses the player has an opportunity to receive monetary award value according to the pay table, (Fig. 6, col. 6:56-7:21);

(c) tracking how many of the time intervals pass during the at least one play of the game (Gaming machine inherently track each time the time intervals pass when receiving the fee);

(d) deducting one of the fees from the value total for each one of the time intervals which passes, the deduction being independent of any game outcome (Fee 514 for the time interval 516 in fig. 5);

(e) tracking a balance (In this case the balance is interpreted as the balance on the player's account.), the balance being based on the valued total minus the deducted fees [Walker discloses methods of crediting and charging the player (cols. 4:6-10, 6:5-6, 14:55-65). When a player pays a wagering fee from a player's account, the wagering fee is charged from the player's account. The method of determining a balance based on the total minus the deducted fees (wager) is inherent in all slot machines. Otherwise there will be no need to provide a wager fee.];

(f) adding the value of any received award to the balance (This is inherent, as described in cols. 4:6-10, 6:5-6, 14:55-65).

(g) as long as the balance remains above a level, continuing perform steps (b), through (f) until a termination even occurs [As long as the player has enough money in the player's account [cols. 4:6-10, 6:5-6, 14:55-65] the player can perform the method of steps (b) through (f).];

(h) after the termination event occurs (When the player decides to stop playing the wagering), determining whether any payout is due to the player based on the balance; and (i) providing the determined payout, if any, to the player (This is interpreted as a payout is made based on the last deducted fee during the last flat rate play session, Fig. 13. For example, when the player wants to cash out after all the games are played and a remaining value is left in the player's account balance.).

As discussed above, Walker discloses the claimed invention when interpreting Walker's duration of flat rate play session (722 in Fig. 7 and 2B) as the claimed "time intervals". Another interpretation of Walker is made by interpreting Walker's duration of flat rate play session (722 in Fig. 7 and 2B) as a total time played using the value total. More specifically, Walker discloses a method of operating a gaming system where the player plays a flat rate play session for a flat rate price (see abstract). The player can select different flat rate play sessions based on the game parameters (col. 7:39-54). The flat rate price is interpreted as the value total, and the flat rate play session is interpreted as the period of time in which the gaming system operates. After the wager

is made, the CPU generates a random number and identifies a corresponding outcome (col. 4:17). Based on identified outcome, an outcome display is provided, and the appropriate payout is made (col. 4:15-26). Fig. 13 illustrates the method in which the game system provides a payout. A flat rate database (246) and a casino player database (344) tracks and audit the flat rate play session (Figs. 4-5). When a player stops the game session in the middle of the flat rate play session, the value remaining (430) is calculated and the interval remaining (516) is calculated to allow the player continue the flat rate play session (cols. 6:36-38, 12:31-60, 13:13-14:10). The player can add additional credits to the claimed "balance" (the balance associated with the flat rate play session) by providing additional credit (col. 13:51-14:10). This balance is paid by the player's credit account. As discussed above, award value winnings are added to the player's credit account. Thus the any received award can be added to the balance of the flat rate play session. Furthermore, it is noted that the step (f) is not required since alternatively, the player may not receive any award.

Walker significantly discloses the claimed invention but fails to specifically teach the value total is divisible into a plurality of fees, the period of time is divisible into a plurality of time intervals, deducting one of the fees from the value total for each one of the time interval until the balance remains above a level and until a termination event occurs. Nevertheless, such limitations are implied or would have been obvious to one of ordinary skilled in the art. As discussed above, Walker discloses the value remaining (430) is calculated and the interval remaining (516) is calculated to allow the player continue the flat rate play session (cols. 6:36-38, 12:31-60, 13:13-50). Thus it is implied



or would or would have been obvious to have fees deducted in intervals in order to calculate the value remaining and the interval remaining. Having the total value being divisible into a plurality of fees and the period of time being devising into a plurality of time intervals will provide a specific fee or a specific time interval. This will allow the remaining value and the remaining time interval to be evenly calculated. Furthermore, this will allow players to play intervals of the flat rate session. Playing at intervals of the flat rate session will allow the player to play a flat rate gaming session for a smaller fee for a smaller amount of playing time. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Walker's method of playing a flat rate playing session in order to evenly calculate the remaining value and the remaining time interval, and allow a player to play a flat rate gaming session for a smaller fee for a smaller amount of playing time.

Claims 43, 52. For each time interval the fees deducted from the value total are equal (If the player selects the same game with the same game parameters, then the wager fee will be the same. Furthermore, see rejection for claim 42 above.).

Claims 44, 53. Each time interval is an equal interval of time (Player can select the same game parameters including the same time interval, col. 5:22-33, Fig. 2B. Furthermore, see rejection for claim 42 above.).

Claims 46, 55. Determining and displaying at least one payout associated with at least one displayed outcome for at least one play of the game if the balance is greater than zero after the plurality of time intervals, wherein said determined payout is based on the balance (Player can select price parameters based on the game parameters, col. 7:39-54. The game parameters may be amount wagered per play, and active pay lines. The determined value payout, is based on the pay-table, which is based on wager/deducted fees. After a wager is made, the CPU generates a random number and identifies a corresponding outcome, col. 4:17. Based on identified outcome, an outcome display is provided, and the appropriate payout is made, col. 4:15-26. Furthermore, when the player wins, the gaming machine determines and displays the current balance in the video display area, col. 4:20-22.).

Claims 47, 56. Stopping the deducting step at least temporarily during the play (A fee is required for a gaming session. After the gaming session is over, the player can momentarily stop playing by not providing the fee to start the next gaming session).

Claim 51. See rejection for claim 42 above. Furthermore, Walker discloses a gaming system comprising: at least one display device; at least one input device; at least one processor (Figs. 2A-2B); and

at least one memory device which stores a plurality of instructions (cols. 3:67-4:5), which stores a plurality of instructions, which when executed by the at least one processor.

Claims 60, 62. The termination event includes an election by the player to terminate at least one play of the game (As discussed in claim 42 and 51 above, termination occurs when the player decides to stop playing the game.).

Claims 61, 63. The termination event includes a satisfaction of a termination condition other than: (a) an expiration of a designated period of time; or (b) a use of designated number of plays [In the first interpretation using Walker, the fees are deducted as the player continues to play the fee using the same game parameters. The termination of the gaming session could occur for numerous reasons. One reason could be that the balance is zero. Another reason could be that the player decides to stop playing. In the second interpretation using Walker, the player can stop in the middle of the gaming session. Thus the termination occurs by the player's will, which is other than an expiration of a designated period of time or a use of designated number of plays.].

### ***Response to Arguments***

Applicant's arguments with respect to claims 42-44, 46-47, 51-53, 55-56, 60-63 have been considered but are moot in view of the new ground(s) of rejection. A new ground of rejection has been made using Walker et al. (US 6,077,163) to address the newly added amended limitations.

Applicant asserts that Walker fails to teach the claimed limitations. Applicant points out that Walker's flat rate play session ends regardless of any awards the player wins during the play of a game. The winnings do not extend play of the game. However, Applicant claimed invention does not claim that the winnings extend the play of the game. The winnings are simply added to the balance (in step f). The game is played until (step g) as long as the balance remains above a level until a termination event occurs. This is similar to Walker. In the first interpretation, the balance refers to the player's credit account. As long as the player has money within the account, the player can continue to wager and play the game. In the second the interpretation of Walker, the balance refers to the balance of the flat rate play session. Again, as long as the balance of the flat rate play session remains above a level (positive level), the player can continue the flat rate play session. Furthermore, it is noted that the step (f), adding the value to any received award to the balance, does not require that the player receives an award value which is added to the balance. Alternatively, the player may not win any awards. Thus step (f) is not required.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson H. Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 9:00am - 5:00am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JHY